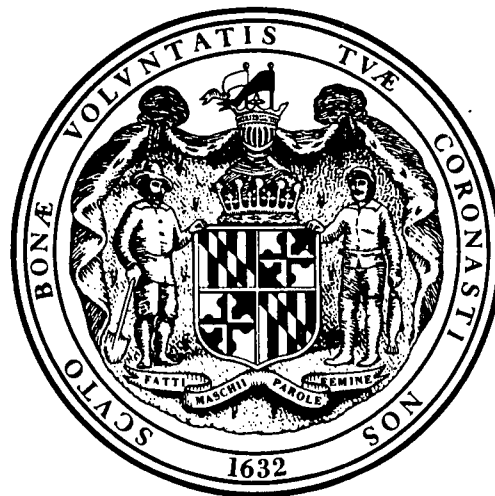


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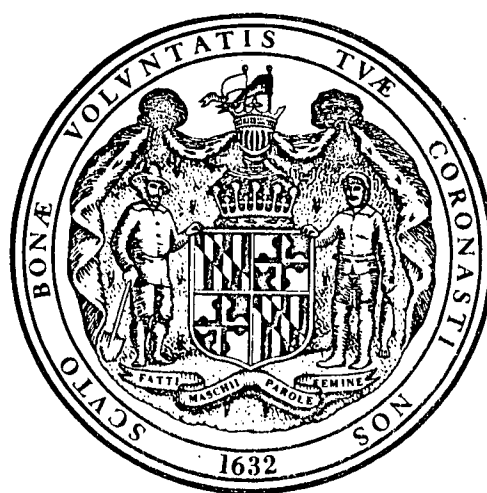
**INTERIM REPORT
OF THE
SPECIAL COMMITTEE ON
DRUG AND ALCOHOL ABUSE**



December, 1987

The Honorable Pauline H. Menes, Chairperson

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EXECUTIVE SUMMARY

The Special Committee recommends the following legislation to aid in the control and prevention of drug and alcohol abuse. These proposals would:

1. Establish that a drug and alcohol test is sufficiently reliable to justify the revocation of a defendant's probation without an expert witness from the laboratory testifying to support the contents of the report;
2. Authorize designated persons, prior to an adjudicatory hearing, to apply for involuntary admission of a child into an alcohol or drug abuse treatment program;
3. Require an employer who requires job-related drug or alcohol testing to have the specimen tested by a laboratory that holds a Maryland State permit or is certified by a federal government agency designated to certify or approve testing laboratories; and
4. Establish a second type of first offense for driving while intoxicated (DWI) and provide that the new first offense would carry a maximum penalty of 90 days' imprisonment; limit trial jurisdiction to the District Court and prohibit a jury trial for the offense; discourage the practice of reducing DWI offenses to charges of driving under the influence (DUI) as a means of expediting the overwhelming caseload; and enable the Motor Vehicle Administration to record the DWI offenses, impose points, and withdraw driving privileges.

The Special Committee has developed the following recommendations for proposed activities:

1. Publication of an extract of the Maryland Alcohol and Drug Laws contained in the Annotated Code;
2. Oversight of the Certificate of Need (CON) process relating to beds for alcohol and drug abuse treatment facilities; and
3. Contacting county Drug Advisory Councils and requesting input on local drug abuse prevention and treatment needs.

The Special Committee surveyed local health officers, prevention coordinators, and treatment officials of 24 jurisdictions and 20 jurisdictions responded to the survey. The survey identified the principal deficiency in dealing with drug

and alcohol abuse as inadequate local and State funding, insufficient salaries for counseling staff, and a need for additional treatment services.

The Special Committee also conducted a survey concerning the extent of drug and alcohol abuse education and the scope of disciplinary policy in Maryland's public schools. The survey found that:

1. In most jurisdictions, drug and alcohol education begins in kindergarten and constitutes a part of a mandatory course offering through the 8th grade;
2. Of the hours spent in drug and alcohol education in the last academic year for each school level, the median number of hours spent was 29.5 for high school, 20 for middle and junior high schools, and 40 for elementary schools;
3. The number of mandatory and elective courses that include drug and alcohol education and the number of hours spent on this topic varies greatly, particularly during the high school years;
4. The discipline policy proved fairly uniform in the schools and local education agencies. A student caught using or possessing drugs or alcohol for the first time faces suspension and on a subsequent offense, expulsion. Typically, the schools refer such students to counseling and report the students to the police;
5. The percentage of the student body disciplined for drug or alcohol use, possession, or distribution was quite small (well under 1% of the student body). More high schools reported disciplinary action (86.1%) than middle or junior high schools (54.2%);
6. More high school students were referred to counseling than were disciplined (i.e., suspended or expelled); and
7. Eighteen local education agencies have no continuing education requirements for their teachers in drug and alcohol education. Despite this, 67.3% of the high schools and 69.8% of the middle and junior high schools sampled report that at least one teacher participated in a drug and alcohol education training program during the last academic year.

INTRODUCTION

The Special Committee submitted a Preliminary Report to the Speaker of the House in May 1987. The Report included recommendations and an outline of the Committee's proposed activities for the 1987 interim period. The Committee's interim activities largely focused on the tasks outlined in the preliminary report.

The Committee developed and conducted 2 surveys on drug and alcohol abuse in Maryland. The first survey concerned the extent of drug and alcohol abuse education and the scope of disciplinary policy in Maryland's public schools. The final results of the survey are included as an appendix and the executive summary is presented as part of this report. At the Committee's request, the survey was developed and conducted by Elizabeth Sammis, Research Analyst, and was designed to aid the Committee in formulating recommendations on the role of the public schools in prevention and treatment of drug and alcohol abuse among students. The survey informed the Committee on the implementation of drug and alcohol education programs.

The second survey canvassed local health officers, prevention coordinators, and treatment officials in each county. Members of the Committee conducted the surveys by contacting the officials for interviews and forwarding the survey forms for completion. This enabled the Committee to meet with local officials responsible for administering drug and alcohol abuse prevention and treatment programs and to identify effective approaches to these issues. This report includes a summary of the survey results.

In addition to conducting the surveys, the Committee held 11 Committee meetings. The Committee meetings are tape recorded. The meetings included presentations by State officials, the private sector, program administrators, and other concerned individuals. The discussions permitted the Committee to examine and address policies, rules, and regulations concerning drug and alcohol abuse and to formulate recommendations. The Committee devoted several meetings to a review of the State's proposed employee drug testing policy. Further, the Committee received testimony on the distribution of federal funds statewide, problems facing local alcohol and drug prevention and treatment programs, and the effect of the certificate of need process on development of alcohol and drug treatment facilities. The Committee's deliberations on these issues are presented in this report.

Scope of Maryland's Alcohol and Drug Abuse Problem

The Department of Health and Mental Hygiene, Addictions Services Administration, reports that approximately 4.7 percent of Maryland residents between ages 11 and 65 are either dysfunctional or at risk of becoming dysfunctional from drug abuse. The drug abuse population is approximately 29 percent female and 24 percent under the age of 18. It is estimated, from an analysis of earlier drug abuse figures, that the number of drug abusers in Maryland increased 39 percent from 1977 to 1981 and 55 percent for 1981 to 1985. These figures include over 50,000 opiate abusers and close to 60,000 cocaine abusers.

The increased drug abuse has resulted in an increased strain on vital community services including law enforcement, judicial, correctional, treatment, educational, and social service resources. In addition, the Office of Justice Assistance notes that illegal drug traffic is a significant contributing factor in crimes of violence. In Baltimore City alone, the investigation in 1986 of 240 murders revealed that as many as 80 were drug related.

One of the most destructive trends is the upsurge in the use of cocaine and PCP as the drug of preference. Heroin use is generally confined to Baltimore City and its north or northeast environs, small areas on the rural Eastern Shore, and communities in the Washington, D.C. metropolitan area.

Tragically, drug use appears to be escalating among a younger population. Between FY '84 and FY '86 OJA indicates that adolescent admissions to drug abuse treatment programs increased by 22 percent. In a survey of residents in selected Maryland juvenile residential institutions, between 70 and 80 percent of the respondents admitted illegal drug use during the 6 months prior to entering the facility.

The Special Committee's response to the reported drug and alcohol abuse problem in Maryland was to focus on efforts designed to prevent drug and alcohol abuse by school age children and youth. At the same time, the Committee examined existing programs and proposed efforts to coordinate the use of State resources to combat alcohol and drug abuse.

Proposed Activities

The Special Committee has developed the following recommendations for proposed activities:

1. Publication of Extract of Maryland Alcohol and Drug Laws Contained in the Annotated Code

The Special Committee found that an integrated extract of selected Alcohol and Drug Laws was helpful and informative. Other interested parties expressed an interest in obtaining copies of the extract. For this reason the Committee recommends that a comprehensive extract of these laws, which include provisions from numerous articles of the Code, be published in a bound edition following the 1988 legislative Session. Similar extracts have been published for Theft Laws and Election Laws.

2. Exercise Oversight of the Certificate of Need (CON) Process Relating to Beds for Alcohol and Drug Abuse Treatment

The Special Committee proposes to monitor and provide oversight of the Certificate of Need process as it relates to authorization of beds for alcohol and drug treatment. This will encourage full utilization of beds and assist in the implementation of funding strategies to cover treatments costs.

3. Contact County Drug Advisory Councils and Request Input

The Federal Drug Abuse Act requires that local advisory councils be established. The Special Committee recommends that the councils be contacted and requested to inform the Committee on local needs. In this way, the survey data compiled by the Committee would be updated and the Committee could keep the General Assembly apprised of local drug abuse prevention and treatment needs.

HEALTH

Mandated Health Insurance Benefits for Drug and Alcohol Abuse Treatment

The 1987 General Assembly considered and rejected 2 bills on health insurance benefits for addiction treatment (HB 1532 and HB 844). The General Assembly enacted a resolution to establish a broader Governor's Task Force on Mandated Health Insurance Benefits (HJR 29/JR 12). The Resolution was referred to the Legislative Policy Committee which assigned the issue of mandated benefits to a standing Committee.

The current insurance law does not provide a mandated health insurance benefit for drug abuse treatment. The law includes a mandated option (Article 48A, Section 354R and 477S) for at least 21 days of inpatient treatment during a 12-month period and covers at least 80 percent of the cost of care not to exceed \$1,000. The benefits for alcoholism treatment are mandated.

The Special Committee learned that the cost of inpatient treatment required for drug abuse often exceeds \$1,000. Insufficient health benefits often discourage substance abusers from seeking appropriate care. At the same time, the business community views mandated insurance benefits as costly and less constructive than strong Employee Assistance Programs (EAPs) and voluntary abstinence groups such as Alcoholics Anonymous and Narcotics Anonymous.

The Special Committee earlier agreed to reserve action on mandated benefits until the Governor's Task Force issued the November 1, 1987 report included in the Resolution. The report has not been delivered. The Special Committee continues to recommend that health insurance benefits for drug abuse treatment be enacted commensurate with the alcohol abuse benefits.

Summary of Local Health Department Survey

The Special Committee surveyed 24 jurisdictions and 20 jurisdictions responded to the survey. One jurisdiction did not respond and substituted for the survey a detailed substance abuse report compiled by six county agencies. Two counties also substituted for the survey detailed information on their existing facilities and daily population reports.

The survey identified the principal deficiency in dealing with drug and alcohol abuse as inadequate local and State funding. The respondents unanimously agree that local and State funding is unable to provide sufficient counseling staff and necessary services.

The respondents offered a variety of suggestions for improving the inadequate funding. Several respondents included "creative" approaches including an increase in property taxes and designating the funds for prevention and education, allocating a portion of the Driving While Intoxicated and Driving Under the Influence fines collected to prevention programs, and an alcoholic beverage surcharge.

Thirty-five percent of the respondents identified their principal need as an increase in funding for salaries of counselors and other prevention and treatment staff. One respondent was more specific in recommending funding for staff and facilities at detoxification treatment centers for uninsured jobless clients. One respondent also identified in addition to the need for increased funding, increased technical assistance from the State and the forging of more government and business partnerships to aid prevention and support services.

Two respondents stated that the focus of increased funding should be training of prevention staff. For example, more funding should be used to train peer counselors and individuals in contact with high risk populations. Implementation of this increased funding to individuals in contact with high risk populations would require an identification of what is generally considered to be a high risk population.

The majority of the respondents to this survey identified "high risk" populations as young adults, teenagers, children of alcohol and drug abusers, criminal offenders, indigents, and low income people and minorities. A few respondents included unique high risk populations such as construction workers, pregnant women, tourists, school dropouts, teenage parents, suicidal persons, abuse victims, and single parent families. These responses indicate that the definition of "high risk population" is broadly interpreted and that prevention and treatment programs throughout the State are not focusing their programs on the same groups.

Thirty percent of the respondents to the survey listed as an unmet need a local halfway house. Several respondents pointed out that they needed a halfway house specifically for the female population.

A few respondents identified unmet needs which were unique to their jurisdictions. These respondents identified a need for migrant programs, programs for children of chemically dependent parents, and programs to improve coping skills. Three respondents also identified the need for drug-free and alcohol-free recreational programs for teenagers. It was suggested that these programs could be developed by using funds to develop model drug-free recreation centers or creating centers

for "alternative activities" under alcohol-free and drug-free stipulations.

Fifty-five percent of the respondents lack public residential treatment facilities for adolescent drug or alcohol patients. The other jurisdictions that do have public residential treatment facilities indicated a wide variance in the period that individuals must wait for treatment. The respondents have waiting periods that range from no waiting period to an "indefinite" period. Most respondents recorded at least a one-week waiting period. The range of answers regarding waiting periods suggests that it is difficult for facilities to determine an accurate waiting period.

The results of the survey also indicate that seven jurisdictions do not employ any full-time professional staff for prevention. However, all respondents indicated that they employ more than one full-time professional for treatment and only one jurisdiction does not employ any part-time treatment staff.

The survey also indicates that all of the respondents except one have a formal plan for drug and alcohol education and treatment goals.

Addiction Services Administration

During the interim the Special Committee focused on the effectiveness of programs operating under the existing Drug Abuse and Alcoholism Control Administrations.

In its Preliminary Report the Special Committee had recommended the efficient organization of State programs for treatment and services for addictive illness and chemical dependency. In the 1987 Department of Health and Mental Hygiene reorganization the two administrations were merged to form the Addictions Services Administration. During the interim the Special Committee, in a letter to the Secretary of Health and Mental Hygiene, expressed its support for the reorganization and its concern about the potential impact of the reorganization. (See Appendix IV)

Specifically, the Special Committee stated its concern about:

1. The implementation of measures to preserve adequate levels of administrative support necessary to accomplish the statutorily mandated task of the Drug Abuse and Alcoholism Control Administrations;
2. The published vacancy notice for the position of Director of the Addictions Services Administration and

whether the minimum education qualifications and stated salary adequately reflect the high level of responsibility embodied in the new combined position;

3. The implementation of methods for assuring that the duties of the Alcohol Control Administration and the powers and duties of the director of the Drug Abuse Administration are delegated to the new Addiction Services Administration; and
4. Receiving assurances from the Department that functions specified in law with respect to the Advisory Councils for both Administrations will continue in force under the consolidated Administration.

The Special Committee urged the Addiction Services Administration to discuss and develop with the Special Committee any legislative changes brought about by the consolidation.

The Special Committee is aware of the fact that the Addiction Services Administration is attending to the necessary legislative changes. The Special Committee contemplates reviewing the proposed legislation prior to introduction.

Addiction Counselors

The Special Committee received extensive testimony during the Session and the Interim about the inadequacy of the salaries for Addiction Counselors. In response to the testimony, the Special Committee wrote to Governor Schaefer in March, 1987, and sent copies of the letter to Speaker Mitchell, President Miller, and the Chairmen of the Appropriations and Budget and Taxation Committees (See Appendix IV). The letter noted that although the annual salary review (ASR) raised the Addiction Counselors' salaries, other efforts should be instituted to further augment the salaries.

The Special Committee also noted that Addiction Counselors perform duties that are similar to the duties of Parole and Probation Agents, and therefore, the salary scales should be comparable. The Department of Fiscal Services (DFS) compiled information for the Committee indicating that the vacancy rate for Addiction Counselors and Addiction Counselor Trainees is 17% and positions remain vacant for an average of 6 months. The data (See Appendix IV), listed the starting salaries of Addiction Counselors as compared with other counselors with comparable duties (i.e. Mental Health Counselors, Juvenile Counselors, Parole and Probation Agents, and Human Service Workers). While the DFS information clearly states that the qualifications for the positions may not be comparable and this may account for the salary differences, the Special Committee recommended that the

qualifications be reviewed again and that the Addiction Counselors be considered under a subsequent ASR. This recommendation of the Special Committee is renewed here.

The Special Committee has learned that the turnover and vacancy rates among Addiction Counselors is largely related to the inadequate salaries. This situation is serious enough that a majority of respondents to the Special Committee's survey of local health officers, treatment and prevention coordinators consistently reported the need for more adequate compensation for Addiction Counselors. The respondent's reports on waiting periods for program entry suggest that the vacancy rate has a grave impact on program quality. For these reasons, the Special Committee strongly recommends that immediate steps be taken to adjust the salaries of Addiction Counselors statewide.

Certificates of Need for Alcohol and Drug
Abuse Treatment Facilities

The Special Committee received testimony during the interim concerning the ability of the certificate of need (CON) program to provide adequate drug and alcohol abuse treatment facilities for citizens of Maryland.

Edward Pigo, of the Maryland Health Resources Planning Commission (HRPC), testified that drug facilities have only recently been included in the CON program. Under the State Health Plan, the focus has been on alcohol facilities and recently on methadone maintenance programs.

The Special Committee examined carefully Chapter 519 of the 1987 Laws of Maryland which addressed the problem of separation of drug and alcohol treatment certification procedures. Chapter 519 required the State Health Resources Planning Commission to develop a new alcohol and drug abuse treatment CON methodology for the State Health Plan before January 1, 1988. Following this examination, the Chair appointed a subcommittee chaired by Delegate Virginia Thomas to investigate other issues concerning the CON process that were not addressed by Chapter 519.

The subcommittee examined the issue of how to create incentives for private providers to treat indigent drug and alcohol abuse patients. The desired approach was to have private providers devote a certain percentage of their care to indigent patients by providing adequate economic incentives.

The subcommittee also met with the Acting Director of the Addiction Services Administration, Howard Silverman, to express its concerns with the provision of care to indigent patients and the elimination of quality drug and alcohol treatment programs by an unnecessarily difficult certificate of need process.

In a subsequent subcommittee meeting with the Acting Director and Assistant Director of Special Emphasis Programs of the Addiction Services Administration and private providers specific recommendations were developed to address the problem of drug and alcohol treatment for the indigent client.

First, the subcommittee recognized that under current federal law Medicaid money cannot be utilized to provide drug and alcohol treatment for indigent clients between certain ages. If the indigent client's treatment is not funded by Medicaid the State would not receive a 50 percent matching of its contribution to the care of the client. The subcommittee recommended that a new category of benefit be created for alcohol and drug abuse treatment. The subcommittee recommended that a letter be sent to the members of the Maryland Congressional Delegation expressing the Committee's recommendation.

The subcommittee also recommended the implementation of two pilot projects to provide care to indigent drug and alcohol abuse clients. The first pilot project would provide intermediate residential care on an annual basis for approximately 140 clients. This project would cost approximately \$250,000.

The second pilot project would provide short-term inpatient care including detoxification followed by appropriate outpatient follow-up. This program would serve approximately 100 clients annually at a cost of \$250,000.

The subcommittee suggested that the full Committee send a letter to the Governor and the Secretary of Health and Mental Hygiene recommending that these pilot projects be implemented immediately and that any necessary administrative exemptions be made to accomplish their immediate implementation for a two-year period.

The full Committee accepted these recommendations and is taking appropriate action. During 1987 Session the Special Committee will review the amendments to the State Health Plan that are being offered by the Maryland Health Resources Planning Commission and will continue to exercise oversight over the drug and alcohol abuse treatment facility CON process.

DISTRIBUTION OF FEDERAL FUNDS

The Special Committee received testimony on the Drug-Free Schools and Communities Act of 1986 which was designed to provide additional resources to reinforce and coordinate the efforts of concerned parents, State and local officials, and community organizations to eliminate use of drugs by youths. The Act directs \$2.66 million to programs which specifically address drug and alcohol abuse prevention. Of the \$2.66 million, 70% goes to the Maryland State Department of Education. The Maryland State Department of Education (MSDE) will distribute 90% of these funds to the local school districts. Each local education agency will receive at least \$15,000 to:

1. Develop or acquire an effective drug abuse education and prevention curriculum for students;
2. Select and train school staff who will be responsible for implementing the drug abuse education and prevention curriculum in all grades;
3. Develop policies and procedures for implementing drug abuse intervention and prevention programs which are available and appropriate for students in all grades;
4. Facilitate the development or maintenance of a cooperative school-community approach to address the issues of drug abuse and to produce a coordinated plan of action for resolution of such issues.

The remaining 10% of the funds allotted to MSDE are to be used for funding of exemplary programs and technical assistance to local education agencies.

The Department of Education has requested the local education agencies applying for grants to submit a 3-year plan including a detailed first-year plan.

The Special Committee conducted a survey of the local education agencies and a select group of schools to aid the Department of Education in assessing the needs of local schools to effectively combat alcohol and drug abuse. (See Appendix II)

The Special Committee continues to work with the Department of Education to ensure that the assessed needs are met.

Under the Drug-Free Schools and Communities Act of 1986, 30% (\$797, 745) of the funds allotted to Maryland will go to the Governor's Office of Justice Assistance. Fifty percent of these funds will be used to address the needs of high-risk youth and 50% will be used for other drug and alcohol abuse prevention programs. The Office of Justice Assistance has been instrumental in the coordination of the State's substance abuse programs.

During the Interim, the Office of Justice Assistance, directed by Floyd Pond, through testimony provided the Special Committee with assistance and kept the Committee informed of its activities, particularly the program evaluation process.

The Special Committee will continue to examine the activities of the Governor's Office and aid that office in its coordination of a broad range of resources and programs and in its policy development and needs assessment to ensure an adequate level of treatment in Maryland.

PROPOSED STATE DRUG TESTING POLICY

The Budget Bill for Fiscal 1988 required the Department of Personnel to submit a proposal for drug testing for State employees and preemployment drug testing to the Legislative Policy Committee for approval prior to the expenditure of any funds for that purpose.

At the request of the Speaker of the House, the Special Committee on Drug and Alcohol Abuse reviewed with the Secretary of Personnel the Drug Testing Policy (See Appendix V). The Special Committee concluded that the proposal is consistent with the legal considerations raised in the October 22, 1986 Attorney General Opinion concerning drug testing (See Appendix IV).

The Special Committee recommended that the Legislative Policy Committee further examine the implementation of the testing policy and require the Department to adopt regulations relating to:

1. Certification of any laboratory contracted to conduct drug testing, consistent with national standards governing drug testing laboratories.
2. Specific procedures for protecting the confidentiality of drug tests.
3. Procedures for conducting confirmatory tests of positive test results, including an employee's right to employ an independent laboratory.
4. A requirement of at least 10 days' advance notice to employees who are to be tested.
5. Procedures for developing and implementing appropriate employee assistance programs for designated employees.
6. Appropriate alcohol testing procedures consistent with laws governing use of alcohol, particularly for employees who operate vehicles in the course of their work.

The Special Committee also recommended that the development of regulations not delay the start of the proposed drug testing program and that the Department of Personnel maintain comprehensive statistics on the implementation of the drug testing policy.

The Legislative Policy Committee referred the drug testing policy for State employees to the Senate Finance Committee and the House Appropriations Committee. On October 20, 1987, Chair Pauline Menes offered the Special Committee's recommendations described above to the two Committees concerning the proposed drug testing policy for State employees.

The Legislative Policy Committee, upon the recommendation of the Finance and Appropriations Committees and the Special Committee on Drug and Alcohol Abuse, suggested that the Department of Personnel not proceed with the implementation of any aspect of the proposed policy or the expenditure of any funds appropriated for it until the policy is converted to appropriate regulations.

These regulations would then be subject to review by the Administrative, Executive, and Legislative Review Committee (AELR) upon completion.

EDUCATION

Executive Summary of the Final Report on the Survey of Maryland's Public Schools

In most jurisdictions, drug and alcohol education begins in kindergarten and constitutes a part of a mandatory course offering through the 8th grade. The median number of courses providing drug and alcohol education was 2 among middle and junior high schools and 4 among the high schools. Typically, for all grades, health and science courses cover this topic and a county developed curriculum is used.

Summing the hours spent in drug and alcohol education in the last academic year for each school level, the median number of hours spent was 29.5 for high school, 20 for middle and junior high schools, and 40 for elementary schools.

High schools draw more on nonschool personnel for drug and alcohol education than middle, junior high, or elementary schools. The most typical participants are the police.

Despite these general patterns, the number of mandatory and elective courses that include drug and alcohol education and the number of hours spent on this topic varies greatly, particularly during the high school years.

The discipline policy proved fairly uniform across the schools and Local Education Agencies. A student caught using or possessing drugs/alcohol for the first time faces suspension and on a subsequent offense expulsion. Typically, the schools refer such students to counseling and report the students to the police.

The percentage of the student body disciplined for drug/alcohol use, possession or distribution was quite small (well under 1% of the student body). More high schools reported disciplinary action (86.1%) than middle or junior high schools (54.2%).

More high school students were referred to counseling than were disciplined (i.e. suspended or expelled). However, the percentage of schools that referred students to counseling (71.7%) was lower than the percentage that reported disciplinary action (86.1%). While there is some variation, most schools pursue other avenues apart from disciplinary action to curb substance abuse problems among their students.

Eighteen local education agencies have no continuing education requirements for their teachers in drug and alcohol education. Despite this, 67.3% of the high schools sampled and

69.8% of the middle and junior high schools report that at least one teacher participated in a drug and alcohol education training program during the last academic year.

Drug and Alcohol Abuse Prevention

The Special Committee devoted considerable time to review and discussion of the role of the schools in addressing student substance abuse and the development of effective drug and alcohol abuse prevention education programs. The health specialist for the Maryland State Department of Education (MSDE), Russell Henke, was particularly helpful in providing information to the Special Committee about ongoing and prospective programs in the public schools. The MSDE reported that 15 Local Education Agencies (LEAs) have implemented one or more of the following programs:

- . The Maryland Alcohol and Drug Action Resource Team (MADART);
- . Students Helping Other People (SHOP); and
- . Self Management and Resistance Training (SMART). (See Appendix IX)

The MSDE data on "Alcohol and Drug Curricula and Prevention Programs Implemented in the Public Schools of Maryland" released in February, 1987, further reported that each LEA has some type of program in place in every school. The Special Committee learned that the MSDE is providing funds to LEAs under the Drug Free Schools and Communities Act. The goals of the MSDE grant project, as stated in the initial application for grants, are:

1. To have each LEA develop or acquire an effective drug abuse education and prevention curriculum for all students;
2. To select and train school staff to implement the drug abuse education and prevention curriculum;
3. To develop policies and procedures for drug abuse intervention and prevention; and
4. To facilitate the development of a cooperative school-community approach to address drug abuse issues.

The Committee recognizes that the MSDE project description and goals are significant. The members also recognize a need to address the quality and effectiveness of existing and forthcoming drug and alcohol education programs. Committee members urged that the proposed school programs encourage peer counseling, use of community drug abuse prevention resources, student assistance

programs (SAPs), and training for school personnel and administrators.

The Special Committee also expressed concern about the role of teachers, administrators and other school staff in identifying and intervening in suspected student alcohol and drug abuse situations. The concerns focused on whether all school personnel are adequately trained on substance abuse matters related to youth and whether the existing immunity laws (Education Article, Section 6-109) protects sufficiently school personnel who intervene with students suspected of drug or alcohol abused. These concerns prompted the Special Committee to consider recommending that all school personnel be trained in alcohol and drug abuse prevention. The training would be designed to enable school personnel to identify suspected substance abusers and at-risk youth and to provide intervention, assistance and referral. The immunity law would be expanded to include all school personnel.

Before going forward with the recommendation, the Special Committee agreed to first obtain the views of the Superintendent of Education, David Hornbeck.

The Special Committee asked the Superintendent (See Appendix IV) to review and submit comments on the issues of immunity for all school personnel who report suspected student drug or alcohol abusers to school officials or parents, staff training, and comprehensive drug and alcohol prevention education. The recommendations of the Special Committee on these issues have been held in abeyance pending the Superintendent's response.

LAW ENFORCEMENT

The Special Committee received testimony and suggestions from law enforcement officials and a judge concerning proposals to reduce the supply of illegal drugs.

The Baltimore City Police Department offered testimony to the Special Committee in support of a bill to seal affidavits which were submitted in support of search and seizure warrants and a bill to enhance the penalties for distributing drugs in, on, or within 1,000 feet of a school. The Committee decided that it would not submit legislation concerning these proposals.

The Anne Arundel County's State's Attorney's office testified that most drug enforcement officials are not given enough money to prosecute major drug dealers. Presently, the community has demanded that the State's Attorney focus on low-level community disrupting drug-related offenses.

The Maryland State's Attorneys' Association also testified in support of two legislative initiatives. The first initiative requires mandatory sentencing of subsequent offenders. The second initiative offered would overturn the Gillis v. State decision which held that the State must produce the chain of custody witnesses if the defense attorney requests them. The Committee decided that it would not submit legislation concerning these initiatives.

The Special Committee also requested testimony from Judge Howard Chasanow of the Prince George's County Circuit Court on his experience with drug cases on the bench. From Judge Chasanow's testimony, a bill was developed to recommend an addition to the current law that would establish that a drug or alcohol test performed by a laboratory certified by Maryland or the federal government and approved by the Division of Parole and Probation of the Department of Public Safety and Correctional Services is sufficiently reliable to justify revocation of the defendant's probation without the presence in court of an expert witness from the laboratory testifying to support the contents of the reports.

Legislation was also developed which would create statutory authorization of presentence drug testing and that would require a drug or alcohol test for pretrial detainees. The Committee decided not to submit legislation concerning presentence or pretrial drug testing.

The Special Committee considered a proposal presented by special subcommittee consisting of the Chair, Pauline Menes, Assistant Attorney General Ellen Callagary, and Assistant State's

Attorney Valerie Seigel, to authorize a court, prior to juvenile law proceedings, to order alcohol and drug treatment. The Special Committee amended this proposal to provide procedural safeguards like those contained in the current law governing involuntary mental commitment. The Committee also added provisions to the proposal to require the attorney and the client to be sent notice of the order, providing the juvenile with the right to counsel throughout the proceedings, and providing that a copy of the certificate of involuntary admission be submitted to the child's attorney and the child. The Committee adopted this proposal.

Finally, the Special Committee considered legislation to authorize the seizure and forfeiture of illicit profits of the drug trade. The Special Committee heard testimony in favor of forfeiture measures from the Baltimore City Police Department and the State's Attorneys' Association. The Special Committee recognized that the Judiciary Committee and the Judicial Proceedings Committee were also conducting an interim review of the forfeiture legislation from the 1987 Session. The Special Committee decided to wait for a report by the Judiciary Committee and the Judicial Proceedings Committee before making any suggestion concerning forfeiture legislation.

SPECIAL COMMITTEE REVIEW AND OVERSIGHT

The Special Committee, in a memorandum to the leadership of the Appropriations and Budget and Taxation Committees, requested that the Joint Chairman's Report expressly include the role of the Special Committee on Drug and Alcohol Abuse in the budget review process relating to specific programs (See Appendix IV). The Joint Chairman's Report specifically designated the Special Committee to review and comment on the following:

1. The Office of Justice Assistance detailed program plan on utilization of all funds available under the Federal Anti-Drug Abuse Act of 1986. The Joint Chairman's Report prohibits the spending of funds under the Act beyond February 1, 1988 until the program plan is approved by the Special Committee and the budget committees;
2. The report of the Mass Transit Administration on the feasibility of a drug testing program for bus and rail operators and other employees with public safety responsibilities;
3. The report of the Division of Parole and Probation's independent consultant on the review of the Division's activities;
4. The Division of Correction report on the results of random drug tests of inmates and correctional staff; and
5. The proposed drug testing policy of the Department of Personnel.

The Special Committee reviewed the comprehensive drug testing policy of the Department of Personnel presented to the Special Committee by Secretary of Personnel, Hilda Ford (See Appendix V). Following the review, the Special Committee recommended to the Legislative Policy Committee (LPC) that the drug testing policy be adopted as a regulation (See Appendix IV). The Special Committee urged that the regulations include requirements for employee assistance programs, mechanisms to assure accurate test results, and procedures to protect confidentiality. The LPC assigned the review of the Special Committee's recommendations and the proposed drug policy to the Appropriations Special Oversight Subcommittee on Personnel. The Subcommittee reviewed the policy and the Special Committee's recommendations. Subsequently, Secretary of Public Safety and Correctional Services, Bishop L. Robinson, updated the Appropriations Committee on the status of drug testing in the Department of Public Safety and Correctional Services (DPSC) and

advised that the Department would await adoption of the COMAR provisions before taking further action on drug testing for new correctional officers. The DPSC also advised that the results of random drug testing would be reported by February 1, 1988. The Special Committee feels it is an error to not test new officers and this view was forwarded to the Speaker and the Chair of the Appropriations Committee for action. It is anticipated that the Special Committee will review the COMAR provisions when available.

The Office of Justice Assistance (OJA) consulted with the Special Committee regularly throughout the interim. The OJA prepared an application for federal funds under the State and Local Law Enforcement Act of 1986 and submitted a copy to the Appropriations and Budget and Taxation Committees. The Committees approved the application. The State's Strategy for Addressing the Drug Abuse Problem under the grant program is included in Appendix VI of this report.

LEGISLATION RECOMMENDED BY SPECIAL COMMITTEE

Juvenile Causes - Drug and Alcohol Treatment

The Special Committee recommends an addition to the current law that would authorize certain persons to apply for the involuntary admission of a child into an alcohol or drug abuse treatment program prior to an adjudicatory hearing. (See Bill in Appendix I). The party seeking to have the child admitted to treatment would have to apply for a certificate of involuntary admission. The Special Committee in adopting this proposal sought to incorporate many of the procedural safeguards contained in the current law governing involuntary mental commitment and to protect the child. This proposal was developed by a special subcommittee that reviewed the Maryland State Bar Association's Harmfully Involved Report.

Probation - Drug and Alcohol Testing

The Special Committee recommends an addition to the current law that would establish that a drug or alcohol test, performed by a laboratory certified by Maryland or the appropriate agency of the federal government and under contract with the Division of Parole and Probation of the Department of Public Safety and Correctional Services is sufficiently reliable to justify revocation of the defendant's probation, without an expert witness from the laboratory testifying to support the contents of the report. This proposal was developed from testimony requested and received from Judge Howard Chasanow of the Prince George's County Circuit Court concerning his experience on the Prince George's County bench and responds to the holding in the case of Wilson v. State 521 A2d 1257, 70 Md. App. 527 (1987).

Drug and Alcohol Testing - Laboratories - Licensing and Certification

The testimony presented to the Special Committee indicated that licensing and certification of drug testing laboratories needs to be strengthened. The verification of drug tests depends strongly on whether the testing laboratory is qualified to conduct tests. The existing regulations governing medical laboratories may not be adequate to apply to drug testing laboratories.

The Special Committee recommends legislation requiring that drug tests be conducted in Maryland or federally certified laboratories. The bill authorizes the Department of Health and Mental Hygiene to develop additional regulations for drug testing laboratories. Any employees being tested are to be allowed to have independent tests of the same specimen conducted in another

certified laboratory at their own expense. The bill does not apply to crime laboratories.

District Court Jurisdiction - Driving While
Intoxicated - Penalty

The Special Committee was informed that the increased number of alcohol-related driving cases that reach the courts have caused delays and other court problems. As a result, some persons charged with driving while intoxicated (DWI) are permitted to plead to the lesser offense of driving under the influence (DUI). The lesser offense (DUI) carries a maximum \$500 fine and 2 months' imprisonment. The first offense of DWI carries a \$1,000 fine and 1 year imprisonment.

The first-time DWI offender generally does not receive a jail sentence. However, each is entitled to a jury trial in the circuit court if requested. The proposed bill would place a first-time DWI offender exclusively within the District Court's jurisdiction. The first-time offender would be a person charged with DWI where the charge did not involve personal injury or property damage.

This bill would enable the District Court to gain more recorded convictions for first-time offenders whose cases might otherwise be disposed of as a probation before judgment or as a DUI. As a result of a recorded conviction, a person with a second offense would be subject to a maximum penalty of \$1,000 fine and 2 years' imprisonment.

BILLS NOT ADOPTED

The Special Committee considered legislation that would authorize a circuit or District Court judge to seal a search warrant affidavit for a 90-day period until investigations are finished or witnesses can be protected. This legislation had been introduced in 1987 as House Bill 1147. The Special Committee contacted the Court of Appeals Standing Committee on Rules of Practice and Procedure to inquire about the history and rationale of Rule 4-601 of the Maryland Rules. After this inquiry the Committee formally considered the legislation and received testimony on the subject from the Baltimore City Police Department. The Committee decided not to adopt this proposal.

The Special Committee also considered but did not adopt a proposal recommended by the subcommittee which examined the Maryland State Bar Association's Harmfully Involved Report. This proposal would have required a person under 21 years of age, who is convicted of a subsequent violation of alcohol-related and drug-related driving offenses to participate in a drug and alcohol treatment program. The proposal also would have required a court that places a person under 21 years of age on probation, who has been convicted of a violation of alcohol-related and drug-related driving laws, to satisfy certain conditions of suspension of sentence.

The Special Committee also considered a bill presented to the Committee by Delegate Kreamer concerning the furnishing of alcoholic beverages to underaged persons. The bill prohibited any person from furnishing alcoholic beverages to a person under 21 years of age, who is not a member of the donor's family. The bill provides an exception for religious ceremonies. The Committee did not adopt this proposal.

The Committee considered a bill that proposed to add a separate crime and penalty for the sale of drugs on or within 1,000 feet of school property or on a school bus.

The proposed penalty would be a mandatory 3-year sentence. The sentence could be reduced on the recommendation of the State's Attorney. Under the proposed bill the sale of less than 25 grams of marijuana would be punishable by a mandatory 1-year sentence.

A juvenile charged with the new crime could be tried as an adult. The Committee did not adopt the bill.

The Committee considered bills that required placing a health warning label on alcoholic beverages and labeling an alcoholic beverage to specify the amount of alcohol in the

beverage by volume.

After discussion, the Committee decided the procedure might be costly and might interfere with interstate commerce.

The Special Committee discussed the idea of prohibiting advertisements for alcohol on State-owned property. This legislation would have banned alcohol advertisements on billboards, buses, real property, State college and university campuses or in State-owned buildings. The Committee decided that the agencies involved should be contacted to determine the current policies.

The Special Committee reviewed but did not act on a bill that imposes a fine on an individual who assists a minor in purchasing alcoholic beverages. Under the bill, each licensed alcoholic beverages vendor would be required to post a warning sign which specified the penalty.

The Special Committee also discussed but did not adopt a proposed bill to require liquor stores to post signs detailing the penalties for driving while intoxicated and driving under the influence.

